

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2925

Introduced by Assembly Member Davis

February 22, 2008

An act to amend Sections 17980 and 17991 of, and to add Section 17994 to, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2925, as amended, Davis. Substandard buildings: new ownership interest: registration.

(1) The State Housing Law regulates buildings used for human habitation and requires specified local agencies to enforce building standards.

Under existing law, if any sale or other transfer of property to a 3rd party occurs during the period between the issuance of a notice of violation relating to substandard buildings and the abatement of the violation, or any administrative or judicial actions related thereto, the transferor is required to record a Notice of Conveyance of Substandard Property with the county recorder where the property is located, within 5 days after the sale or transfer occurs, identifying the name and address of the buyer or transferee. The notice is required to be executed with a signature that the information is true and correct, under penalty of perjury.

Under existing law, any person who obtains an ownership interest in any property after a notice of pendency of an action or proceeding relating to substandard buildings was recorded with respect to the property is subject to any order to correct the violation, including time limitations, specified in the citation or other notice of violation.

This bill would require a person or entity that ~~acquires~~ *has* an ownership interest in a property for which an enforcement agency has recorded with the county recorder, *on or after July 1, 2009*, any of specified documents relating to substandard building violations to provide that enforcement agency with specified information and documents, ~~concurrently with the completion of sale, an exchange of property, or closure of escrow~~. The bill would impose a state-mandated local program by imposing additional duties upon enforcement agencies.

The bill would impose specified civil penalties for failure to comply with these reporting requirements. The bill would authorize a public prosecutor to bring a civil action seeking a civil penalty, and provide that the civil penalty shall be a lien on the property and enforceable as a civil judgment.

The bill would exempt from these provisions real property owned by a governmental entity and real property owned by a financial institution, as specified, that has a recorded deed of trust on the real property and acquires possession of the real property pursuant to the terms and conditions of the loan. The bill would further provide a 60-day exemption for a lender, as defined, to comply with these provisions.

The bill would also delete a notice requirement specific to Los Angeles County.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17980 of the Health and Safety Code is
- 2 amended to read:
- 3 17980. (a) If any building is constructed, altered, converted,
- 4 or maintained in violation of any provision of, or in violation of,
- 5 any order or notice that gives a reasonable time to correct that
- 6 violation issued by an enforcement agency pursuant to this part,
- 7 the building standards published in the California Building

Standards Code, or other rules and regulations adopted pursuant to this part, or if a nuisance exists in any building or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate the nuisance or violation, or a notice to abate with a shorter period of time if deemed necessary by the enforcement agency to prevent or remedy an immediate threat to the health and safety of the public or occupants of the structure, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

(b) (1) Whenever the enforcement agency has inspected or caused to be inspected any building and has determined that the building is a substandard building or a building described in Section 17920.10, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building. The enforcement agency shall not require the vacating of a residential building unless it concurrently requires expeditious demolition or repair to comply with this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part. The owner shall have the choice of repairing or demolishing. However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair. The enforcement agency may require vacation and demolition or may itself vacate the building, repair, demolish, or institute any other appropriate action or proceeding, if any of the following occurs:

(A) The repair work is not done within the period required by the notice.

(B) The owner does not make a timely choice of repair or demolition.

(C) The owner selects an option which cannot be completed within a reasonable period of time, as determined by the enforcement agency, for any reason, including, but not limited to, an outstanding judicial or administrative order.

(2) In deciding whether to require vacation of the building or to repair as necessary, the enforcement agency shall give preference to the repair of the building whenever it is economically feasible to do so without having to repair more than 75 percent of the dwelling, as determined by the enforcement agency, and shall give

1 full consideration to the needs for housing as expressed in the local
2 jurisdiction's housing element.

3 (c) (1) Notwithstanding subdivision (b) and notwithstanding
4 local ordinances, tenants in a residential building shall be provided
5 copies of any of the following:

6 (A) The notice of any violation described in subdivision (a) that
7 affects the health and safety of the occupants and that causes the
8 building to be substandard pursuant to Section 17920.3 or in
9 violation of Section 17920.10.

10 (B) An order of the code enforcement agency issued after
11 inspection of the premises declaring the dwelling to be in violation
12 of any provision described in subdivision (a).

13 (C) The enforcement agency's decision to repair or demolish.

14 (D) The issuance of a building or demolition permit following
15 the abatement order of an enforcement agency.

16 (2) Each document provided pursuant to paragraph (1) shall be
17 provided to each affected residential unit by the enforcement
18 agency that issued the order or notice, in the manner prescribed
19 by subdivision (a) of Section 17980.6.

20 (d) All notices issued by the enforcement agency to correct
21 violations or to abate nuisances shall contain a provision notifying
22 the owner that, in accordance with Sections 17274 and 24436.5
23 of the Revenue and Taxation Code, a tax deduction may not be
24 allowed for interest, taxes, depreciation, or amortization paid or
25 incurred in the taxable year.

26 (e) The enforcement agency may charge the owner of the
27 building for its postage or mileage cost for sending or posting the
28 notices required to be given by this section.

29 SEC. 2. Section 17991 of the Health and Safety Code is
30 amended to read:

31 17991. (a) The sale or other transfer of property to a third party
32 shall not render moot an administrative or judicial action or
33 proceeding pursuant to this article, including an action under
34 Section 17982, instituted by an enforcement agency, or a receiver
35 on behalf of an enforcement agency, against the owner of record
36 on the date a citation for, or other notice of, a violation of this part
37 was issued.

38 (b) In the event of any sale or other transfer of property to a
39 third party during the period between the issuance of the notice of
40 violation and the abatement of the violation, or any administrative

1 or judicial actions related thereto, within five days after the sale
2 or transfer occurs, the transferor shall record a Notice of
3 Conveyance of Substandard Property with the county recorder
4 where the property is located, identifying the name and address of
5 the buyer or transferee and executed with a signature that the
6 information is true and correct, under penalty of perjury.

7 (c) In the event of any sale or other transfer of property, other
8 than a property that is subject to Section 17994, to a third party
9 during the period between the issuance of the notice of violation
10 and the abatement of the violation, or any administrative or judicial
11 actions related thereto, the transferor shall provide all of the
12 following information to the enforcement agency within five days
13 after the sale or transfer occurs:

14 (1) If the seller or transferor is not an individual person, the
15 name, address, and driver's license number or identification card
16 number of each individual who has an interest in excess of 5
17 percent in the entity that is selling or transferring the property.

18 (2) If the buyer or transferee is an individual person, the name,
19 address, and driver's license number or identification number of
20 that individual.

21 (3) If the buyer or transferee is not an individual person, the
22 name, address, and driver's license number or identification card
23 number of each individual who has an interest in excess of 5
24 percent in the entity that is the buyer or transferee of the property.

25 SEC. 3. Section 17994 is added to the Health and Safety Code,
26 to read:

27 17994. (a) This section applies to a property ~~that meets both~~
28 ~~of the following criteria:~~

29 ~~(1) An~~ *for which an* enforcement agency has recorded with the
30 county recorder any of the following documents *on or after July*
31 *1, 2009:*

32 ~~(A)~~

33 ~~(1)~~ A notice of pending action pursuant to Section 17985.

34 ~~(B)~~

35 ~~(2)~~ A notice of substandard conditions or a notice of substandard
36 building pursuant to a local ordinance.

37 ~~(C)~~

38 ~~(3)~~ A document stating that a building is uninhabitable.

39 ~~(2) Any document referred to in paragraph (1) that is recorded~~
40 ~~on or after July 1, 2008, contains the following statements: "State~~

1 law requires disclosures to be made to the local enforcement agency
2 upon transfer of a substandard property. Local enforcement
3 agencies may impose additional obligations.”

4 ~~(b) Concurrent with the completion of sale, exchange of~~
5 ~~property, or closure of escrow, a person who acquires an ownership~~

6 *(b) A person who has an ownership* interest in a property that
7 is subject to this section shall provide the enforcement agency with
8 all of the following *on an annual basis*:

9 (1) A notarized document containing the following information:

10 (A) The person’s name.

11 (B) The names of any coowners.

12 (C) The address of any person identified under subparagraph
13 (A) or (B). The address shall not be a post office box or other
14 mailbox number. If the property is vacant, the address provided
15 under this paragraph shall not be the address of the property.

16 (D) The telephone number, fax number, and e-mail address of
17 any person identified under subparagraph (A) or (B).

18 (E) The address of the subject property.

19 (F) The date of the transfer.

20 (2) An identification document, and the expiration date of that
21 document. The identification document shall contain the name,
22 date of birth, description, and picture of the person, and shall be
23 issued by the federal government, the State of California, another
24 state, a county, a municipal government, or another country as
25 provided in this paragraph. The identification document may be,
26 but is not limited to, a driver’s license, an identification card, or
27 an identification card issued to a member of the United States
28 Armed Forces. The identification document may also be a consulate
29 identification card issued by another country to its citizens and
30 nationals, if that identification card has been approved as valid
31 identification by the city or county where the property is located,
32 or a passport issued by a foreign government.

33 ~~(e) Within 30 calendar days after the completion of sale,~~
34 ~~exchange of property, or closure of escrow, a plan of correction~~

35 *(c) (1) A plan of correction* shall be submitted to the
36 enforcement agency for the substandard conditions that includes
37 estimates of a timeline, costs of repair, and available financial
38 resources, or a demolition plan that is in compliance with local
39 law, and includes estimates of a timeline and, if applicable,
40 relocation of tenants. Proof of liability insurance, if any, shall also

1 be provided. The information required under this subdivision *shall*
2 *be submitted to the enforcement agency on an annual basis and*
3 may be submitted by personal service, facsimile, electronic mail,
4 or United States mail. If the United States mail is utilized, the
5 information shall be placed in the mail five days or more prior to
6 the due date.

7 (2) *The enforcement agency may impose a fee in an amount*
8 *sufficient to cover its costs for processing the information submitted*
9 *under paragraph (1).*

10 (d) If the entity that ~~acquires~~ *has* an ownership interest in the
11 property is a corporation, limited liability company, partnership,
12 limited partnership, trust, or real estate investment trust, the
13 information required under subdivision (b) shall be supplied for
14 the following persons:

15 (1) For a corporation, a corporate officer.

16 (2) For a limited liability company, the managing or
17 administrative member.

18 (3) For a partnership or a limited partnership, limited and general
19 partners.

20 (4) For a trust, a trustee.

21 (5) For a real estate investment trust, a general partner or an
22 officer.

23 ~~(e) If the person or entity that acquires an ownership interest in~~
24 ~~the property resides or is domiciled outside this state, the person~~
25 ~~or entity shall designate for the purposes of this section a natural~~
26 ~~person who resides in this state and who manages the property.~~
27 ~~This designation shall be accompanied by a notarized statement~~
28 ~~by the designated person that he or she accepts the designation.~~

29 ~~(f)–~~

30 (e) (1) The enforcement agency, upon request, may disclose to
31 the subject property's tenants, or any tenant's association or
32 organization, the name and address of the person or entity that
33 acquires an ownership interest in the property.

34 (2) The enforcement agency shall not disclose to a member of
35 the public the information furnished under subparagraph (D) of
36 paragraph (1) of, or paragraph (2) of, subdivision (b), or
37 subdivision (c), unless so ordered by a court of competent
38 jurisdiction.

39 ~~(g)~~

1 (f) If the property has 16 units or more, and any portion of the
2 property is occupied, the person who ~~acquires~~ *has* an ownership
3 interest shall post the information required under subparagraphs
4 (A), (B), ~~(D)~~, ~~(E)~~, and ~~(F)~~ of paragraph (1) of subdivision (b),
5 ~~within 15 days after the date of sale or other transfer of the~~
6 ~~property, on a~~ (D), (E), and (F) of paragraph (1) of subdivision
7 (b) on a notice that is typed in not less than a 20-point font, and is
8 placed in a locked bulletin board that is located on the property,
9 affixed in a visible and conspicuous location, and is not more than
10 five feet above the ground.

11 ~~(h)~~
12 (g) Nothing in this section shall prevent local government from
13 adopting and enforcing laws that duplicate or supplement this
14 section. This section shall be construed as providing alternative
15 remedies and not as preempting the field of the subject matter.

16 ~~(i)~~
17 (h) Notwithstanding Chapter 6 (commencing with Section
18 17995), a person or entity that fails to comply with this section or
19 knowingly provides false information to an enforcement agency
20 shall be subject to a civil penalty for each violation in the minimum
21 amount of two thousand five hundred dollars (\$2,500) and the
22 maximum amount of twenty-five thousand dollars (\$25,000). An
23 action for a civil penalty under this provision may be brought by
24 any public prosecutor in the name of the people of the State of
25 California and the penalty imposed shall be a lien on the property
26 and enforceable as a civil judgment.

27 ~~(j)~~
28 (i) A person or entity that is not in compliance with this section
29 shall not demand rent, collect rent, issue a notice of rent increase,
30 or issue a three-day notice to pay rent or quit pursuant to
31 subdivision (2) of Section 1161 of the Code of Civil Procedure for
32 a unit that has been deemed substandard or a unit that is part of a
33 building that has been deemed substandard.

34 ~~(k)~~
35 (j) This section does not apply to real property owned by either
36 of the following:

- 37 (1) A governmental entity.
38 (2) A financial institution that has a recorded deed of trust on
39 the real property that secures a loan and acquires possession of the
40 real property pursuant to the terms and conditions of the loan. For

1 the purposes of this section, “financial institution” is a bank, trust
2 company, savings association, savings and loan association,
3 industrial bank, finance lender in this state, residential mortgage
4 lender, or credit union that is authorized to transact business under
5 federal law or the laws of this state.

6 ~~(h)~~

7 (k) A lender other than a financial institution that has a recorded
8 deed of trust on the real property securing a loan and that acquires
9 possession of the real property through judicial or nonjudicial
10 foreclosure pursuant to the terms and conditions of the loan shall
11 be exempt from this section for 60 calendar days after acquiring
12 possession of the real property. For purposes of this subdivision,
13 “lender” is a beneficiary under a deed of trust made or arranged
14 by a financial institution or real estate broker.

15 ~~(m)~~

16 (l) Nothing in this section affects the obligation of a person
17 subject to this section to comply with any other provision of law
18 or to comply with an order issued by an enforcement agency.

19 SEC. 4. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.